

## AMENDMENTS TO THE CLAIMS

1. (Previously Presented) A device for use in a cardiovascular surgery on the beating heart comprising:

means for stabilizing the beating heart comprising a contact member shapeable to engage the surface of the beating heart, wherein a contact surface of said contact member is variably shapeable to a plurality of different shapes; and

means for introducing a positive or negative fluid pressure to said contact member, wherein introduction of said positive or negative fluid pressure fixes a present shape of the contact member and contact surface, whereby said introduction of said positive or negative fluid pressure is capable of fixing said contact member and contact surface at any of a plurality of different shapes that said contact member and contact surface are capable of being shaped into prior to said introducing a positive or negative fluid pressure.

Claims 2-11 (Canceled)

12. (Previously Presented) The device of claim 1, wherein said contact member comprises a hollow portion containing a conformable material therein.

13. (Previously Presented) The device of claim 12 wherein said conformable material is granular, a polymeric, or a gel.

Claims 14-45 (Canceled)

46. (Currently Amended) The device of claim 1, wherein said contact member is formed of a malleable material, said malleable material providing structural memory to said contact member.

Claims 47-52 (Canceled)

53. (Previously Presented) The device of claim 1 wherein said contact member comprises a single continuous wire.

Claims 54-57 (Canceled)

58. (Previously Presented) The device of claim 1 wherein said contact member is inflatable.

Claims 59-189 (Canceled)

190. (Currently Amended) A device for use in cardiovascular surgery on the beating heart, comprising:

a shaft member having a distal end portion and a proximal end portion; and

at least one continuously adjustable contact member connected to said distal end portion of said shaft member and comprising a flexible tube having a contact surface adapted to contact a surface of the beating heart, said at least one continuously adjustable contact member adapted to be adjusted to a shape to substantially conform to the a surface of the heart, and maintained in said shape by said device, wherein said shape is variable, depending upon a shape of the surface of the heart that said contact member is conformed to.

191. (Previously Presented) The device of claim 190, wherein said at least one continuously adjustable contact member is adapted to be bent into a U-shaped configuration.

192. (Previously Presented) The device of claim 190, wherein said at least one continuously adjustable contact member is configured for application of a vacuum thereto to substantially fix the at least one contact member in its currently adjusted shape.

193. (Canceled)

194. (Previously Presented) The device of claim 190, wherein said flexible tube contains a plurality of particles or beads.

195. (Previously Presented) The device of claim 194, further comprising a vacuum lumen connecting with said flexible tube, wherein upon application of vacuum through said vacuum lumen, said particles or beads are compressed by atmospheric pressure causing said flexible tube to become

substantially rigid.

196. (Currently Amended) The device of claim 190, further comprising a malleable member extending along least a portion of a length of said flexible tube and providing structural memory to said at least a portion of a length of said flexible tube.

197. (Previously Presented) The device of claim 196, wherein said malleable member comprises a wire.

198. (Previously Presented) The device of claim 194, further comprising a malleable member extending along at least a portion of a length of said flexible tube.

199. (Previously Presented) The device of claim 198, wherein said malleable member comprises a wire.

200. (Previously Presented) The device of claim 196, further comprising a plurality of disks disposed along said malleable member.

201. (Previously Presented) The device of claim 198, further comprising a plurality of disks disposed along said malleable member.

202. (Previously Presented) The device of claim 190, wherein said flexible tube is inflatable.

203. (Withdrawn) The device of claim 190, wherein said at least one continuously adjustable contact member comprises a pair of continuously adjustable contact members.

204. (Withdrawn) The device of claim 190, wherein said at least one continuously adjustable contact member comprises a plurality of continuously adjustable contact members.

205. (Withdrawn) The device of claim 203, wherein each of said pair of continuously adjustable contact members comprises a flexible tube.

206. (Withdrawn) The device of claim 205, wherein each said flexible tube contains a plurality of particles or beads.

207. (Withdrawn) The device of claim 206, further comprising a vacuum lumen connecting with each said flexible tube, wherein upon application of vacuum through said vacuum lumen, said particles or beads are compressed by atmospheric pressure causing said flexible tubes to become substantially rigid.

208. (Withdrawn) The device of claim 207, further comprising a malleable member extending along least a portion of a length of each said flexible tube.

209. (Withdrawn) The device of claim 208, wherein each said malleable member comprises a wire.

210. (Withdrawn) The device of claim 208, further comprising a plurality of disks disposed along each said malleable member.

211. (Withdrawn) The device of claim 205, wherein each said flexible tube is inflatable.

212. (Withdrawn) A method of preparing a device for use in cardiovascular surgery on the beating heart, wherein the device has at least one continuously adjustable contact member adapted to be adjusted to substantially conform to a surface of the heart, said method comprising the steps of:

manipulating the at least one continuously adjustable contact member to adjust a shape of a contact surface of the contact member into a desired configuration, wherein the contact surface is configured to contact the surface of the heart; and  
substantially fixing the desired configuration.

213. (Withdrawn) The method of claim 212, wherein the device is deployed for use in minimally invasive cardiovascular surgery, said method further comprising the steps of:

prior to said manipulating into a desired configuration, manipulating the at least one continuously adjustable contact member into a configuration capable of passing through a minimally invasive opening providing access to the heart; and

passing the at least one continuously adjustable contact member through the minimally invasive opening which provides access to the heart.

214. (Withdrawn) A device for use in cardiovascular surgery on the beating heart, comprising:  
a shaft member having a distal end portion and a proximal end portion; and  
at least one continuously adjustable contact member connected to said distal end portion of said shaft member, said at least one continuously adjustable contact member comprising a wire configured in a coiled configuration in an undeployed state and configured to be adjusted to substantially conform a contact surface of said contact member to a surface of the heart.

215. (Withdrawn) A device for use in a cardiovascular surgery on the beating heart comprising:  
a means for stabilizing the beating heart comprising a pair of spaced contact members including a continuous length of round wire of shape memory alloy material and shaped to engage the surface of the beating heart.

216. (Withdrawn) The device of claim 214, wherein said at least one continuously adjustable contact member is deformable to a reduced cross-sectional size for delivery through a minimally invasive opening, wherein after passing through the minimally invasive opening, said at least one continuously adjustable contact member having memory capability facilitating return of said at least one continuously adjustable contact member to a shape to substantially conform.

217. (Withdrawn) The device of claim 215, wherein each of said pair of spaced contact members is an elongated contact member, said pair being configured to provide a space therebetween, with distal ends of said contact members being separated by said space.

218. (Withdrawn) The device of claim 215, wherein said pair of spaced contact members are deformable to a reduced cross-sectional size for delivery through a minimally invasive opening, wherein after passing through the minimally invasive opening, said memory alloy material of said pair of spaced contact members facilitates return of said pair of spaced contact members to said shape to engage the surface of the heart.

219. (Previously Presented) A device for use in cardiovascular surgery on the beating heart,

comprising:

a shaft member having a distal end portion and a proximal end portion; and

at least one continuously adjustable contact member connected to said distal end portion of said shaft member, said at least one continuously adjustable contact member comprising a round wire configured to be adjusted to substantially conform a contact surface of said contact member to a surface of the heart.

220. (Previously Presented) A device for use in cardiovascular surgery on the beating heart, comprising:

a shaft member having a distal end portion and a proximal end portion; and

at least one continuously adjustable contact member having a main body connected to said distal end portion of said shaft member, said at least one continuously adjustable contact member comprising a wire contained within said main body and configured to be adjusted to substantially conform a contact surface of said contact member to a surface of the heart.

221. (Previously Presented) A device for use in a cardiovascular surgery on the beating heart comprising:

a means for stabilizing the beating heart comprising a contact member shapeable to engage the surface of the beating heart; and

means for introducing a positive or negative fluid pressure to said contact member, wherein introduction of said positive or negative fluid pressure fixes a present shape of the contact member;

wherein said contact member comprises a hollow portion containing a conformable material therein.

222. (New) The device of claim 221 wherein said conformable material is granular, a polymeric, or a gel.